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2d Session

HOUSE OF REPRESENTATIVES

REPORT  
No. 2346

AMENDING SECTION 4472 OF THE REVISED STATUTES, AS  
AMENDED, TO FURTHER PROVIDE FOR THE SAFE LOADING  
AND DISCHARGING OF EXPLOSIVES IN CONNECTION WITH  
TRANSPORTATION BY VESSEL

JUNE 27, 1952.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. HART, from the Committee on Merchant Marine and Fisheries,  
submitted the following

REPORT

[To accompany H. R. 6521]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H. R. 6521) to amend section 4472 of the Revised Statutes, as amended, to further provide for the safe loading and discharging of explosives in connection with transportation by vessel, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 1, line 10, strike out the word "possession" and insert in lieu thereof the word "possessions".

Page 2, line 1, after the words "of any explosives", insert a comma and add the words "for which a permit is required by the regulations promulgated pursuant to this section".

Page 2, lines 7 and 8, strike out the words "shall be observed" and insert in lieu thereof the words "shall not be exceeded".

PURPOSE OF THE BILL

The purpose of this bill is to amend section 4472 of the Revised Statutes (46 U. S. C. 170) as amended so as to prohibit the Coast Guard from issuing permits for the loading or discharging of explosives to or from any vessel any place in the United States, its Territories, or possessions, in any cases for which permits are required by the regulations promulgated pursuant to such sections, unless such explosives are packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission, and unless

such permits specify that the limits as to maximum quantity, isolation, and remoteness established by local, municipal, Territorial, or State authorities for each port shall be observed.

The provisions of law amended hereby are commonly referred to as the Dangerous Cargo Act, under which the Coast Guard is charged with responsibility for the regulation and control of the carriage of explosives or other dangerous articles on vessels. Under the Dangerous Cargo Act the Coast Guard is concerned with the safety of the vessel and its crew and passengers.

#### BACKGROUND OF THE LEGISLATION

The need for this legislation has arisen from the investigation by a special subcommittee of this committee of the disastrous explosion at South Amboy, N. J., on May 19, 1950 (pursuant to H. Res. 643, 81st Cong., 2d sess.), and the report of the results of such investigation made to the Congress on January 2, 1951 (H. Rept. 3250, 81st Cong., 2d sess.).

On the basis of the findings made as to the cause of this disaster, the committee made a number of recommendations calculated to lessen the probability of similar catastrophes in the future. Recommendation No. 5 was as follows:

That no permit for explosives handling shall be issued by the Coast Guard except in accordance with the limits of isolation and remoteness of the America Table of Distances and after reasonable notice to the local municipal authorities by the Coast Guard with opportunity for hearing to such municipal authorities with respect thereto.

Since the adoption and filing of said House Report No. 3250, the Coast Guard has issued new regulations on the subject of issuance of explosives-handling permits which are evidently based upon the desire of the Coast Guard to conform strictly with the terms of said recommendation as a matter of policy even though not bound to do so as a matter of law. As a result of said Coast Guard regulations it has developed that strict adherence to the fifth recommendation in the committee's report is causing an unduly severe impact upon the economic development of the Territories of Alaska and Hawaii and upon certain essential national defense projects being carried on therein. Due to the serious nature of this problem and upon the urgent requests of the Delegates of Alaska and Hawaii, special subcommittees of your committee deemed it necessary to give further attention to the problem of explosives handling in these particular instances insofar as it touched upon subject matter within the jurisdiction of the committee. Accordingly, a series of hearings were held to hear testimony from the Delegates and other officials of the Territories, including the Governor of Hawaii and a telegraphic communication from the Governor of Alaska, as well as officials of the Coast Guard, the Department of the Interior, and others familiar with the facts of the problem in the areas concerned.

As a result of said hearings your committee recognized that the provisions in recommendation No. 5 of House Report No. 3250, Eighty-first Congress, second session, dated January 2, 1951, could not be rigidly adhered to in the case of shipments of explosives to the Territories of Alaska and Hawaii under the conditions demonstrated to exist. It was shown that the only practical methods of transporta-

tion of freight between the mainland of the United States and the Territories is by steamship over long distances to the Territorial ports of destination where the nature of the normal unloading facilities is such that strict adherence to the American Table of Distances is virtually impossible except for the most negligible quantities of explosives. On the other hand it was also shown that the economy and even the safety of the inhabitants of the Territories was greatly dependent upon the use of explosives. It was obvious that unless explosives could be shipped into the Territories by water their essential interests would be seriously jeopardized.

On the basis of the evidence heard by your committee during the course of the above-mentioned hearings concerning the situation in Alaska and Hawaii, your committee felt that there was imperative need for the introduction and consideration at the earliest possible date of legislation looking toward providing for additional safeguards covering the handling of explosives in and out of the ports of the United States and its Territories. Your committee, therefore, adopted House Report No. 1113, Eighty-second Congress, first session, dated October 9, 1951 (pursuant to sec. 136 of the Legislative Reorganization Act of 1946, Public Law 601, 79th Cong.) in which it reaffirmed the principles set forth in House Report No. 3250, but further concluded, however, that it was the sense of the committee that exceptions to recommendation No. 5 of said report should be made with respect to shipments to the Territories provided—

that such exceptions should not be made beyond February 15, 1952, since this period of time will allow for a reasonable amount of stockpiling to meet essential needs, and also allow time for the preparation and introduction of appropriate legislation.

Subsequent to the filing of said House report, the bill, H. R. 6521, herein reported, was introduced by Mr. Boggs of Delaware and referred to your committee for consideration. Identical bills, H. R. 6566 by Mr. Bartlett, Delegate from Alaska, and H. R. 6580 by Mr. Farrington, Delegate from Hawaii, were also introduced and referred to the committee.

Your committee held extensive hearings on the above-mentioned bills and heard testimony from a number of witnesses representing interested governmental departments, the Territories, port officials, explosive experts and contractors. Favorable reports were received from the Departments of the Interior, Navy, and Treasury. The report of the Interstate Commerce Commission pointed out that the bills did not embrace matters within its jurisdiction and that they would not affect the existing packaging and marking requirements applicable to its shipping instructions in transportation service subject to its jurisdiction.

#### ANALYSIS OF THE BILL

The bill provides two conditions which must be met before the United States Coast Guard may issue a permit or authorization for the loading or discharging to or from any vessel in the United States, its Territories, or possessions. First, such explosives must be packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission, under section 835 of title 18 of the United States Code. The second requirement is that any such permit

must specify that the limits as to maximum quantity, isolation, and remoteness, established by the appropriate governmental authorities for each port shall not be exceeded.

As to the first requirement, there would be brought about a greater uniformity of practice as to the packaging and marking of explosives loaded or unloaded in United States ports. At present, shipments of explosives to be exported from this country may be loaded on vessels if packaged and marked in conformity with regulations of the country of destination. On the other hand imports may be discharged from vessels at United States ports if packaged and marked in accordance with regulations of the country of origin.

Under the second requirement the Coast Guard is prohibited from permitting the loading or unloading of explosives at a particular port in any quantities in excess of that permitted by the appropriate local, municipal, Territorial, or State authorities having jurisdiction thereover. Thus, wherever limits as to maximum quantity of explosives, or limits as to isolation and remoteness of the point of loading or unloading from habitations or other structures have been established by the appropriate authority, no permit may be issued for the loading or unloading of a greater quantity or with lesser limits of isolation and remoteness than those so established.

Where, however, local authorities permit greater quantities and lesser degrees of isolation and remoteness than the Coast Guard deems safe in the interest of the loading or discharging vessel or in the interest of safety of the port, the Coast Guard would not be permitted to exceed the limits of quantity, isolation, and remoteness deemed safe by it pursuant to its jurisdiction and regulatory responsibilities under the Dangerous Cargo Act (sec. 4472 of the Revised Statutes (46 U. S. C. 170)) or under the so-called Espionage Act of June 15, 1917, 40 Stat. 220 (50 U. S. C. 191) as amended by Public Law 679, Eighty-first Congress, second session, approved August 9, 1950, as the case may be. Of course, on the other hand, if no limits as to maximum quantity, isolation, and remoteness have been established by the appropriate authority for a particular port, this bill would not prohibit the Coast Guard from issuing permits for loading or unloading at such port.

It is not intended that this bill shall in any way limit or restrict the shipment, transportation, or handling of military explosives by or for the Armed Forces of the United States, and the bill so provides.

#### AMENDMENTS

The original bill was amended by your committee in three respects. One amendment merely corrects an error by making plural the word "possession" in line 10. Another was inserted at the suggestion of the Treasury Department to make it clear that the proposed legislation has application only to explosives for which a permit is required by Coast Guard regulations. The purpose of this is to limit control by the Coast Guard to the dangerous explosives known as class A explosives, and to avoid requiring unduly restrictive regulations applicable to the less dangerous types, known as class B and class C explosives. The third amendment is likewise a clarifying amendment to prevent any interpretation to the effect that the Coast Guard must issue a permit if local regulations are observed even



though in the judgment of the Coast Guard, in the field of its jurisdiction, the limits of such regulations would be unwise.

The Treasury recommended an amendment to the bill which would allow the unloading of explosives packaged, marked, and labeled in conformity with the laws of the country of origin when such explosives are not destined for transportation in the original import containers by common or contract carrier. Your committee feels that this amendment is not justified, particularly in view of the purpose of the bill to recognize local limitations which might be imposed covering the safety of life and property in port communities. It is not conceived why such an amendment relative to importing explosives should be differentiated from the requirements relative to exporting.

The Department of the Navy recommended an amendment intended to extend the exemption contained in the bill with reference to explosives of the Armed Forces of the United States to explosives under the cognizance of the Mutual Security Program. Your committee deems the proposed amendment unnecessary and considers the exemption already contained in the bill to be applicable to the loading and unloading of military explosives procured by the Departments of the Army, Navy, or Air Force, pursuant to any foreign assistance program authorized by Congress.

#### CONCLUSION

As was made clear by your committee in House Report 2350 on the South Amboy explosion, there appeared to be a number of steps which could and should be taken to improve procedures in the transportation and handling of dangerous explosives, and recommendations were made accordingly.

After full hearings on the problems involved in loading and unloading of explosives in the Territories of Alaska and Hawaii and after further hearings and full consideration of the bill herein reported, your committee feels that the mandatory application of the limits as to maximum quantity, isolation and remoteness of the American Table of Distances does not afford a realistic yardstick for the handling of explosives in transportation. On the other hand it has been shown that the essential needs of the economy and even safety of some areas of the United States can be seriously jeopardized by the arbitrary application of the said American Table of Distances. Your committee, therefore, feels that in lieu of the suggestion proposed in recommendation No. 5 of House Report 2350 this bill will provide more effective and flexible safeguards in addition to those under existing law covering the handling of explosives in and out of the ports of the United States and its Territories without, however, preventing the movement of explosives which are so essential to the fulfillment of many of our basic needs and our national progress.

Your committee calls attention to the fact that its jurisdiction in the matter of transportation of explosives touches on only a relatively small portion of the entire problem of the safe transportation of explosives in interstate and foreign commerce. It is to be hoped, therefore, that other committees of the Congress, having jurisdiction over other phases of the problem of transportation of explosives on land will have an opportunity in the near future to continue the study of the problem with the view of providing such further safeguarding legislation as may be necessary. In this connection your committee

is gratified to note that legislation is well under way to prohibit the transportation in interstate or foreign commerce of lethal munitions except when the movement is arranged for, or on behalf of, the United States or an instrumentality thereof, and that such legislation has received wide approval from both Government and industry.

This bill, H. R. 6521, is reported unanimously by your committee. The reports of the Treasury, Interior, and Navy Departments are as follows:

TREASURY DEPARTMENT,  
Washington, May 13, 1952.

Hon. EDWARD J. HART,

*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Further reference is made to your letter of February 12, 1952, in which you requested the views of the Treasury Department on H. R. 6521, and to your letters of February 15, 1952, in which you requested the views of the Department on H. R. 6566 and H. R. 6580. These bills are identical and are titled "To amend section 4472 of the Revised Statutes, as amended, to further provide for the safe loading and discharging of explosives in connection with transportation by vessel."

The purpose of these bills is to amend section 4472 of the Revised Statutes (46 U. S. C. 170) as amended so as to prohibit the Coast Guard from issuing permits for loading or discharging explosives from any vessel at any place in the United States, its Territories, or possessions unless such explosives are packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission, and unless the permit specifies that the limits as to quantity, isolation, and remoteness established by local, municipal, Territorial, or State authorities for each port shall be observed.

The Treasury Department is in accord with the objectives of this proposed legislation. It is believed, however, that clarification of the bills in two particulars, as set forth below, is desirable.

Coast Guard regulations in this field are concerned largely with the control of dangerous explosives, known as class A explosives. It has never been considered necessary to control class B or C explosives to the same extent as class A explosives, and it would appear that the provisions of this proposed legislation may be unduly restrictive in regard to these latter two classes. Accordingly, it is recommended that the proposed legislation be amended to have application only to explosives for which a permit is required by Coast Guard regulations.

It is this Department's interpretation of the proposed legislation that, if it were enacted into law, then wherever local, municipal, Territorial, or State authorities have jurisdiction to act in the premises, dangerous explosives would be permitted by the Coast Guard to be loaded or discharged in conformity with the standards for quantity, isolation, and remoteness established by such authorities. On the other hand, where such authorities have jurisdiction to act in the premises and have failed so to act, the loading and discharging of dangerous explosives would be prohibited until such action was forthcoming. This Department recognizes that this constitutes deferring to local and State authority on a matter with regard to which the Federal Government could exercise full authority; it is believed that this is entirely proper with regard to matters of such vital importance to the locality as the remoteness, isolation, and maximum quantity of dangerous explosives being loaded or discharged. Certainly it is the locality that must bear the brunt of an explosion, should one occur. In this regard, it is noted that the paramount interest of the United States in the handling of explosives for the Armed Forces is expressly protected in the proposed legislation.

Current regulations permit the handling of import shipments which are not packaged and marked in compliance with the regulations of the Interstate Commerce Commission provided they are not destined for transportation in the original import containers by common carrier by rail or highway. These bills apparently would require the cancellation of that regulation and thus, in effect, place an embargo on import shipments of explosives if the country from which shipped required compliance with its own regulations in order for the shipment to be loaded in that country, and such requirements were not similar to those of the Interstate Commerce Commission. It appears, then, that this proposed legislation should make it clear that such unloading of explosives not packaged and marked in compliance with requirements of the Interstate Commerce Commission,

but packaged and marked in compliance with regulations of the country in which loaded, is not prohibited, provided that the explosives are not destined for transportation in the original import containers by common or contract carrier.

It is suggested that the language of the proposed bill be amended to read as follows (suggested additions to the language are in italics):

"(e) The United States Coast Guard shall issue no permit or authorization for the loading or discharging to or from any vessel at any point or place in the United States, its Territories or possessions (not including Panama Canal Zone) of any explosives, *for which a permit is required by the regulations promulgated pursuant to this section* unless such explosives are packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission under section 835 of title 18 of the United States Code, and unless such permit or authorization specifies that the limits as to maximum quantity, isolation, and remoteness established by local, municipal, Territorial, or State authorities for each port shall be observed. Nothing herein contained shall be deemed to limit or restrict the shipment, transportation, or handling of military explosives by or for the Armed Forces of the United States. *Nothing contained herein shall be deemed to prohibit the issuance of a permit for the unloading of any explosives, packaged, marked, and labeled in conformity with the laws or regulations of the country from which shipped when such explosives are not destined for transportation in the original import containers by common or contract carrier.*"

The Treasury Department, subject to these comments, recommends enactment of this proposed legislation. Because of the hearings scheduled for May 20, this report has not been submitted to the Bureau of the Budget.

Very truly yours,

JOHN S. GRAHAM,  
*Acting Secretary of the Treasury.*

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THE SECRETARY OF THE TREASURY,  
*Washington, May 19, 1952.*

HON. EDWARD J. HART,  
*Chairman, Committee on Merchant Marine and Fisheries,  
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: Reference is made to my letter of May 13, 1952, in which the views of the Treasury Department were expressed on H. R. 6521, H. R. 6566, and H. R. 6580, to amend section 4472 of the Revised Statutes, as amended, to further provide for the safe loading and discharging of explosives in connection with transportation by vessel.

As the result of inquiry on the part of interested parties indicating some misunderstanding on how the Department visualizes administration of this proposed legislation in case of enactment, it is deemed advisable to submit to your committee this supplemental report on these bills.

It is not the view of the Treasury Department that this proposed legislation would require complete deferment to local authorities as to standards for quantity, isolation, and remoteness in connection with the loading and unloading of explosives under Revised Statutes 4472 (46 U. S. C. 170). While normally the Coast Guard would grant permits if the local requirements were met, nevertheless, Federal control could still be exercised in those circumstances where the national interests require a greater margin of safety than that prescribed by the local authorities. In granting permits the Coast Guard would be governed mainly by such local requirements, but in certain circumstances might, on the basis of controlling national needs, refuse a permit, or grant a permit that allows the loading or unloading under more restrictive limitations as to quantity, isolation, or remoteness than would be required by the local regulations.

Very truly yours,

JOHN S. GRAHAM,  
*Acting Secretary of the Treasury.*

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D. C., May 7, 1952.

Hon. EDWARD J. HART,  
*Chairman, Committee on Merchant Marine and Fisheries,*  
*House of Representatives, Washington, D. C.*

MY DEAR MR. HART: Further reference is made to your request for the views of this Department on H. R. 6521, H. R. 6566, and H. R. 6580, identical bills to amend section 4472 of the Revised Statutes, as amended, to further provide for the safe loading and discharging of explosives in connection with transportation by vessel.

These bills would amend section 4472 of the Revised Statutes, as amended by the act of October 9, 1940 (46 U. S. C., 1946 ed., sec. 170) by adding a new subsection which among other things would prohibit the Coast Guard from issuing a permit or authorization for the loading or discharging to or from any vessel at any point or place in the United States, its Territories or possessions of any explosives, unless such explosives are packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission under section 835 of title 18 of the United States Code, and unless such permit or authorization specified that the limits as to maximum quantity, isolation and remoteness established by local, municipal, Territorial, or State authorities for each port are observed. The bills would, in effect, provide that the limits as to maximum quantity, isolation, and remoteness established by local, municipal, Territorial, or State authorities for each port, insofar as these factors are concerned, shall be the minimum standard to govern the loading and discharging of commercial explosives.

As you know the shipment of explosives to Alaska and Hawaii, on an adequate and continuing basis, is absolutely essential to the vital civilian and military construction programs presently being conducted in these Territorial areas. At the same time, of course, the public interest requires that sound standards be established to ensure safe handling of these explosives. The enactment of this legislation should result in the accomplishment of both of these objectives.

For the foregoing reasons, I urge that this legislation be enacted promptly.

The Bureau of the Budget has advised that there would be no objection to the submission of this report.

Sincerely yours,

DALE E. DOTY,  
*Assistant Secretary of the Interior.*

DEPARTMENT OF THE NAVY,  
OFFICE OF THE JUDGE ADVOCATE GENERAL,  
Washington, D. C., May 20, 1952.

Hon. EDWARD J. HART,  
*Chairman, Committee on Merchant Marine and Fisheries,*  
*House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Your requests for comment on the identical bills H. R. 6521, H. R. 6566 and H. R. 6580, to amend section 4472 of the Revised Statutes, as amended, to further provide for the safe loading and discharging of explosives in connection with transportation by vessel, have been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The purpose of these measures is to increase the effectiveness of the regulations for protection against hazards created by explosives by requiring adherence to Interstate Commerce Commission regulations for packaging, marking and labeling, and by requiring that local port regulations on handling be observed.

The last sentence of each of the bills provides that "Nothing herein contained shall be deemed to limit or restrict the shipment, transportation, or handling of military explosives by or for the Armed Forces of the United States." In order to extend this exemption to explosives under the cognizance of the Mutual Security Program, it is recommended that the period at the end of the bill be changed to a comma, and the following clause be added within the closing quotation marks: "or the shipment, transportation or handling of military explosives procured by the Departments of the Army, Navy, or Air Force for transfer on a grant or reimbursable basis pursuant to any foreign assistance program authorized by the Congress."



Subject to the foregoing, the Department of the Navy, on behalf of the Department of Defense, has no recommendation to make regarding the enactment of any of these bills.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on the bills H. R. 6521, H. R. 6566 and H. R. 6580 to the Congress.

For the Secretary of the Navy.

Sincerely yours,

G. L. RUSSELL,  
*Rear Admiral, United States Navy,  
Judge Advocate General of the Navy.*

#### CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule III of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

#### SECTION 4472 OF REVISED STATUTES, AS AMENDED (46 U. S. C., SEC. 170)

SEC. 4472. (1) \* \* \*  
(7) \* \* \*

(e) *The United States Coast Guard shall issue no permit or authorization for the loading or discharging to or from any vessel at any point or place in the United States, its territories or possession (not including Panama Canal Zone) of any explosives unless such explosives are packaged, marked, and labeled in conformity with regulations prescribed by the Interstate Commerce Commission under section 835 of title 18 of the United States Code, and unless such permit or authorization specifies that the limits as to maximum quantity, isolation and remoteness established by local, municipal, territorial, or State authorities for each port shall be observed. Nothing herein contained shall be deemed to limit or restrict the shipment, transportation, or handling of military explosives by or for the Armed Forces of the United States.*

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